

State of Wisconsin



2009 Assembly Bill 411

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2009 WISCONSIN ACT 137

AN ACT *to renumber* 301.45 (1p); *to renumber and amend* 51.20 (13) (ct) 1m., 938.34 (15m) (am), 971.17 (1m) (b) 1m. and 973.048 (1m); *to amend* 51.20 (13) (ct) 3. (intro.), 301.45 (1p) (title), 301.45 (7) (e) (intro.), 301.45 (7) (e) 1., 938.34 (15m) (c) (intro.), 938.345 (3) (a) (intro.), 971.17 (1m) (b) 3. (intro.) and 973.048 (3) (intro.); and *to create* 51.20 (13) (ct) 1m. b., 301.45 (1p) (b), 301.45 (7) (f), 938.34 (15m) (am) 2., 938.345 (3) (d), 971.17 (1m) (b) 1m. b. and 973.048 (1m) (b) of the statutes; **relating to:** the prohibition against making, reproducing, or possessing a nude depiction of a person without the person's consent and the sex offender registry.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 51.20 (13) (ct) 1m. of the statutes is renumbered 51.20 (13) (ct) 1m. a. and amended to read:

51.20 (13) (ct) 1m. a. Except as provided in subd. 2m., if the subject individual is before the court on a petition filed under a court order under s. 938.30 (5) (c) 1. and is found to have committed any violation, or to have solicited, conspired, or attempted to commit any violation, of ch. 940, 944, or 948 or ss. s. 942.08 or 942.09, or ss. 943.01 to 943.15, the court may require the subject individual to comply with the reporting requirements under s. 301.45 if the court determines that the underlying conduct was sexually motivated, as defined in s. 980.01 (5), and that it would be in the interest of public protection to have the subject individual report under s. 301.45.

SECTION 2. 51.20 (13) (ct) 1m. b. of the statutes is created to read:

51.20 (13) (ct) 1m. b. If a court under subd. 1m. a. orders a person to comply with the reporting requirements under s. 301.45 in connection with the commission of a violation, or the solicitation, conspiracy, or attempt

to commit a violation, of s. 942.09, the court may provide that the person be released from the requirement to comply with the reporting requirements under s. 301.45 upon satisfying conditions specified by the court. If the person satisfies the conditions, the court shall notify the department of corrections that the person has satisfied the conditions.

SECTION 3. 51.20 (13) (ct) 3. (intro.) of the statutes is amended to read:

51.20 (13) (ct) 3. (intro.) In determining under subd. 1m. a. whether it would be in the interest of public protection to have the subject individual report under s. 301.45, the court may consider any of the following:

SECTION 4. 301.45 (1p) (title) of the statutes is amended to read:

301.45 (1p) (title) EXCEPTION TO REGISTRATION REQUIREMENT; ~~EXPUNGEMENT OF INVASION OF PRIVACY ADJUDICATION OR CONVICTION~~ PRIVACY-RELATED OFFENSES.

SECTION 5. 301.45 (1p) of the statutes is renumbered 301.45 (1p) (a).

SECTION 6. 301.45 (1p) (b) of the statutes is created to read:

* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

301.45 (1p) (b) If a person is covered under sub. (1g) based solely on an order that was entered under s. 51.20 (13) (ct) 1m., 938.34 (15m) (am), 938.345 (3) (a), 971.17 (1m) (b) 1m., or 973.048 (1m) in connection with a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 942.09, and the court provided in the order that the person be released from the requirement to comply with the reporting requirements under this section upon satisfying the conditions of the court order under s. 51.20 (13) (ct) 1m. or the dispositional order under subch. VI of ch. 938, upon the termination or expiration of a commitment order under s. 971.17, or upon successful completion of the sentence or probation as provided under s. 973.048 (1m) (b), whichever is applicable, and the person satisfies the conditions of the court order under s. 51.20 (13) (ct) 1m. or the dispositional order under subch. VI of ch. 938, the commitment order under s. 971.17 is terminated or expires, or the person successfully completes the sentence or probation, whichever is applicable, the person is no longer required to comply with the reporting requirements under this section.

SECTION 7. 301.45 (7) (e) (intro.) of the statutes is amended to read:

301.45 (7) (e) (intro.) The department shall purge all of the information maintained in the registry under sub. (2) concerning a person to whom sub. (1p) (a) applies if any of the following occurs:

SECTION 8. 301.45 (7) (e) 1. of the statutes is amended to read:

301.45 (7) (e) 1. The department receives notice under s. 938.355 (4m) (b) that a court has expunged the record of the person's delinquency adjudication for the violation described in sub. (1p) (a).

SECTION 9. 301.45 (7) (f) of the statutes is created to read:

301.45 (7) (f) The department shall purge all of the information maintained in the registry under sub. (2) concerning a person to whom sub. (1p) (b) applies when any of the following occurs:

1. If the person was ordered by a court under s. 51.20 (13) (ct) 1m. to comply with the reporting requirements under this section, when the department receives notice under s. 51.20 (13) (ct) 1m. b. that the person has satisfied conditions of the court order.

2. If the person was ordered by a court under s. 938.34 (15m) (am) to comply with the reporting requirements under this section, when the department receives notice under s. 938.34 (15m) (am) 2. that the juvenile has satisfied the conditions of the dispositional order.

3. If the person was ordered by a court under s. 938.345 (3) (a) to comply with the reporting requirements under this section, when the department receives notice under s. 938.345 (3) (d) that the juvenile has satisfied the conditions of the dispositional order.

4. If the person was ordered by a court under s. 971.17 (1m) (b) 1m. to comply with the reporting requirements under this section, when the department receives notice under s. 971.17 (6m) (b) 2. that the commitment order under s. 971.17 is terminated or has expired.

5. If the person was ordered by a court under s. 973.048 (1m) to comply with the reporting requirements under this section, when the person successfully completes the sentence or probation as provided under s. 973.048 (1m) (b).

SECTION 10. 938.34 (15m) (am) of the statutes is renumbered 938.34 (15m) (am) 1. and amended to read:

938.34 (15m) (am) 1. Except as provided in par. (bm), if the juvenile is adjudicated delinquent on the basis of any violation, or the solicitation, conspiracy, or attempt to commit any violation, under ch. 940, 944, or 948 or ~~ss. s. 942.08 or 942.09~~, or ~~ss. 943.01 to 943.15~~, the court may require the juvenile to comply with the reporting requirements under s. 301.45 if the court determines that the underlying conduct was sexually motivated, as defined in s. 980.01 (5), and that it would be in the interest of public protection to have the juvenile report under s. 301.45.

SECTION 11. 938.34 (15m) (am) 2. of the statutes is created to read:

938.34 (15m) (am) 2. If the court under subd. 1. orders the juvenile to comply with the reporting requirements under s. 301.45 in connection with a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 942.09, the court may provide that the juvenile be released from the requirement to comply with the reporting requirements under s. 301.45 upon satisfying the conditions of the dispositional order imposed for the offense. If the juvenile satisfies the conditions of the dispositional order, the court shall notify the department that the juvenile has satisfied the conditions of the dispositional order.

SECTION 12. 938.34 (15m) (c) (intro.) of the statutes is amended to read:

938.34 (15m) (c) (intro.) In determining under par. (am) 1, whether it would be in the interest of public protection to have the juvenile report under s. 301.45, the court may consider any of the following:

SECTION 13. 938.345 (3) (a) (intro.) of the statutes is amended to read:

938.345 (3) (a) (intro.) If the court finds that a juvenile is in need of protection or services on the basis of a violation, or the solicitation, conspiracy, or attempt to commit a violation, under ch. 940, 944, or 948 or ~~ss. s. 942.08 or 942.09~~, or ~~ss. 943.01 to 943.15~~, the court may require the juvenile to comply with the reporting requirements under s. 301.45 if the court determines that the underlying conduct was sexually motivated, as defined in s. 980.01 (5), and that it is in the interest of public protection to have the juvenile report under s. 301.45. In deter-

mining whether it is in the interest of public protection to have the juvenile report under s. 301.45, the court may consider any of the following:

SECTION 14. 938.345 (3) (d) of the statutes is created to read:

938.345 (3) (d) If the court under par. (a) orders the juvenile to comply with the reporting requirements under s. 301.45 in connection with a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 942.09, the court may provide that the juvenile be released from the requirement to comply with the reporting requirements under s. 301.45 upon satisfying the conditions of the dispositional order imposed for the offense. If the juvenile satisfies the conditions of the dispositional order, the clerk of the court shall notify the department that the juvenile has satisfied the conditions of the dispositional order.

SECTION 15. 971.17 (1m) (b) 1m. of the statutes is renumbered 971.17 (1m) (b) 1m. a. and amended to read:

971.17 (1m) (b) 1m. a. Except as provided in subd. 2m., if the defendant under sub. (1) is found not guilty by reason of mental disease or defect for any violation, or for the solicitation, conspiracy, or attempt to commit any violation, of ch. 940, 944, or 948 or ss. s. 942.08 or 942.09, or ss. 943.01 to 943.15, the court may require the defendant to comply with the reporting requirements under s. 301.45 if the court determines that the underlying conduct was sexually motivated, as defined in s. 980.01 (5), and that it would be in the interest of public protection to have the defendant report under s. 301.45.

SECTION 16. 971.17 (1m) (b) 1m. b. of the statutes is created to read:

971.17 (1m) (b) 1m. b. If a court under subd. 1m. a. orders a person to comply with the reporting requirements under s. 301.45 in connection with a finding of not guilty by reason of mental disease or defect for a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 942.09 and the person was under the age of 21 when he or she committed the offense, the court may provide that upon termination of the commitment order under sub. (5) or expiration of the order under sub. (6) the person be released from the requirement to comply with the reporting requirements under s. 301.45.

SECTION 17. 971.17 (1m) (b) 3. (intro.) of the statutes is amended to read:

971.17 (1m) (b) 3. (intro.) In determining under subd. 1m. a. whether it would be in the interest of public protection to have the defendant report under s. 301.45, the court may consider any of the following:

SECTION 18. 973.048 (1m) of the statutes is renumbered 973.048 (1m) (a) and amended to read:

973.048 (1m) (a) Except as provided in sub. (2m), if a court imposes a sentence or places a person on probation for any violation, or for the solicitation, conspiracy, or attempt to commit any violation, under ch. 940, 944, or 948 or ss. s. 942.08 or 942.09, or ss. 943.01 to 943.15, the court may require the person to comply with the reporting requirements under s. 301.45 if the court determines that the underlying conduct was sexually motivated, as defined in s. 980.01 (5), and that it would be in the interest of public protection to have the person report under s. 301.45.

SECTION 19. 973.048 (1m) (b) of the statutes is created to read:

973.048 (1m) (b) If a court under par. (a) orders a person to comply with the reporting requirements under s. 301.45 in connection with a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 942.09 and the person was under the age of 21 when he or she committed the offense, the court may provide that the person be released from the requirement to comply with the reporting requirements under s. 301.45 upon successfully completing the sentence or probation imposed for the offense. A person successfully completes a sentence if he or she is not convicted of a subsequent offense during the term of the sentence. A person successfully completes probation if probation is not revoked and the person satisfies the conditions of probation.

SECTION 20. 973.048 (3) (intro.) of the statutes is amended to read:

973.048 (3) (intro.) In determining under sub. (1m) (a) whether it would be in the interest of public protection to have the person report under s. 301.45, the court may consider any of the following:

SECTION 21. Initial applicability.

(1) This act first applies to offenses committed on the effective date of this subsection.